

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

| | | |
|----------------------------------|---|------------------------------------|
| Curtis Richardson, |) | |
| |) | |
| Petitioner, |) | Civil Action No.: 4:13-cv-1368-RBH |
| |) | |
| v. |) | |
| |) | |
| Cecilia Reynolds, Warden of KCI, |) | |
| |) | ORDER |
| Respondent. |) | |
| |) | |

Petitioner Curtis Richardson (“Petitioner”), proceeding *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. *See* Pet., ECF No. 1. The matter is before the Court for review of the Report and Recommendation (“R & R”) of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. *See* R & R, ECF No. 61. In the Report and Recommendation, the Magistrate Judge recommends that Respondent’s motion to dismiss, ECF No. 50, be granted and the petition dismissed as moot. *See* ECF No. 61 at 3. The Magistrate Judge bases this recommendation on the fact that Petitioner’s sentence has been satisfied and he has been released from custody. *See id.*¹

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the

¹ As the Magistrate Judge detailed in his R & R, Petitioner filed a notice of change of address on November 26, 2013 which indicated he had been released from prison. *See* Notice, ECF No. 41. On May 15, 2014, the Court issued an Order instructing the parties to inform the Court of the status of Petitioner’s custody and, if he was no longer in custody, their position on how that affects this action, if at all. *See* Order, ECF No. 47. Petitioner requested an extension of time to file a response, *see* ECF No. 51, which was granted, *see* ECF No. 52. Petitioner, however, failed to file a response addressing the status of his custody. Instead, he filed a document which simply asked the Court to “consider making a ruling on the merits.” *See* ECF No. 59. Respondent, on the other hand, timely filed a motion to dismiss, *see* ECF No. 50, along with an affidavit, *see* ECF No. 50-1. This affidavit, from an official with the South Carolina Department of Corrections, avers that Petitioner was released from prison on November 27, 2013 due to the expiration of his sentence, and that he did not have any term of probation. *See id.*

recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Neither party has filed objections to the Report and Recommendation.² In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendations. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is **ORDERED** that Respondent’s Motion to Dismiss, ECF No. 50, is **GRANTED**, and Petitioner’s § 2254 petition is **DISMISSED** *with prejudice* as moot.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
June 17, 2014

² The deadline to file objections to the R & R was June 16, 2014. After the R & R was issued, Petitioner requested an extension of time to file a response to Respondent’s motion to dismiss. *See* Motion, ECF No. 63. Petitioner indicated that he intended to consolidate this response with his objections to the R & R. *See id.* Therefore, the Court granted an extension of time June 16, 2014, so that the two deadlines would coincide. *See* Order, ECF No. 64. Petitioner did not file a response to the motion to dismiss or any objections to the R & R.